

**Milton Town Council Meeting  
Milton Library 121 Union Street  
Monday, January 6, 2014, 6:30 p.m.**

**Transcriptionist: Helene Rodgvile  
[Minutes are not Verbatim]**

1. Call to Order – Mayor Jones
2. Moment of Silence
3. Pledge of Allegiance to the Flag
4. Roll Call – Mayor Jones

Councilman West	Present
Councilwoman Patterson	Present
Councilman Coté	Present
Councilwoman Parker-Selby	Present
Councilman Collier	Present
Mayor Jones	Present
Vice Mayor Booros	Absent

5. Public Participation

Mayor Jones: Before we get started in our public participation portion, I would just like to remind those speakers that we're asking you to hold it to a 3 minute limit when you speak in public. Mrs. Rogers' has our list tonight.

- Michael Clampitt, new owner of Po' Boys on 16: First of all I would like to thank Councilwoman Patterson for inviting me tonight. Amy and Lee have sold it, they're friends of mine and I'm taking it over as of the 2<sup>nd</sup> of January, which was a couple of days ago. I'm reopening on the 10<sup>th</sup>, but I'm doing a meet and greet, so everybody in Milton is invited on the 9<sup>th</sup>. It's from 5 pm to 9 p.m. I'm roasting a pig and doing some collard greens and some cornbread and gumbo, so I really would like for you guys to come out and that's about it. I just want to say thank you very much for accepting me and hopefully I'll do them proud; Amy and Lee have done such a great job and I'm keeping the menu the same; spring/summer I'll do a little bit of my little things of my own by keeping the Po' Boys, gumbos and stuff like that. So thank you very much and Happy New Year.

Mayor Jones: Thank you.

Councilwoman Patterson: Welcome to Milton. Thank you.

Mayor Jones: Mr. Clampitt, you're having a cochon de lait?

Michael Clampitt: What's that?

Mayor Jones: A pig in the ground.

Michael Clampitt: Exactly. Thank you very much.

- Valerie Valeska, 204 Atlantic Avenue: Greetings to the Mayor and Council. Last month you had brought up the topic of business licenses and I would like to ask the Council to

consider the business license issue. Right now we have a private person I believe at what is it now \$200 across the board, whether you've got a brick and mortar store, or whether you've got just an individual. When I gave my vote for a good many members of the Council, I was looking at one of the things that might have that business license say for an individual and Councilwoman Parker-Selby had mentioned about bringing that individual license down from that \$200 mark and I'm thinking with the economy the way it is and to encourage business in town, you have somebody say they want to start an Avon business and it's like \$10 to start that, they've got to put out a \$200 business license before they can hang one flyer on a doorknob, or knock on one door? I've considered myself doing Internet and with the possibility of reselling on EBay. There's no traffic. There's no impact on the Town of Milton and the only place that business would exist would be on the Internet. Now if I bought something and resold it, commercially, rather than privately, I've got to pay a \$200 license before I can even do that? At one point in time, a private business license I believe was around \$95 or \$100, somewhere in there and I'm asking the Council to consider a graduated thing. For somebody just starting out on a shoestring. Give them maybe a \$10 license to start out with. See what they do the first year. Pro-rate it according to income, or something; but something that's a little bit more fair to anybody that's wanting to start out a business and improve their income, especially the circumstances as they are now, where times are still tight. That's basically all I wanted to address.

Mayor Jones: Thank you.

- Ed Kost, 230 Sundance Lane: Mayor Jones and members of Council, I see on tonight's agenda the Cannery Village punch list is present and accounted for. I also see in Director of Public Works that he says the Pennoni Associates punch list has been completed and I see the gentleman from Pennoni Associates is here. I see our attorney is here. So we have all the player's on stage and I'd like three questions answered. One is the punch list now officially completed, during your discussion? Two, has it been sent to my friends at Chestnut Properties? And has Chestnut Properties responded in any way, shape or form? Thank you.
- Jeff Dailey, 211 Grist Mill Drive: Mayor and Council, thank you for allowing me to speak. I would like, once again, thank Mayor and Council for what I personally believe is going to end up being one of the finest purchases, the best investment of our money and that is 112 Federal Street. I have to confess I have driven by that house and pulled into the driveway and driven up the back and gotten out and looked at the view and I just can't wait until the scrub is cleared away, so that I can see what the view really, really looks like and I just think it's a great investment in our Town and in it's future. Thank you very much. There's been a little kerfuffle about the value of one's home, going up if solar is installed and I was in the game to put solar on my home in Cannery Village neighborhood a couple of years ago and I just went to the literature and I just want to share that the three companies I was looking into, every one of them listed solar as an improvement to one's home and will certainly increase the value. While I would love to see Milton be a green community, and maybe lowering percentage increases on property, in terms of property value, to induce people to go solar, I don't want my town giving the town coffers away. I want them full, so I kind of want it both ways. But I just thought I would mention and share that with you and maybe in future we'll look at that. On tonight's agenda, New Business, h and i. It seems to me that Resolution Requesting an

Amendment to the Milton Town Charter regarding the Town Manager and the Town Council and then Resolution designing duties of the office of Town Manager are extremely important issues. I would very much appreciate it because they come at the very end of this agenda, I would like to hear from the Mayor, perhaps during her report, even if it's impromptu for some kind of delineation as to what h. and i. involve; a time table, public hearing on this kind of issue; so if that could be done, I would so much appreciate it, because I don't frankly if I'm going to make it to h. and i. tonight. Thank you very much.

- James Welu, 30263 East Mill Run: I want to address the same issue on the agenda of the last two items, under New Business. It was interesting, there was a piece on the Internet, an email, where some people thought that the Town was completely changing it's direction and all that kind of thing. There was an email I got on the Internet and someone was thinking that number one, the Town was taking up too much power; the Council was taking up too much power and I thought the Council is the one that has the power. What is he talking about? The Council is the power. They work under the Ordinances of this Town and the Town Manager, the Town Clerk are to administer what the Town does; but what I thought should have happened, is that items h. and i. should have been made public in some way, so that we knew exactly what they were, before we come to the meeting tonight and I have suggested, I think a year ago at the public meeting that our Mayor had about some of the things we wanted to see happen in this Town; I thought that the agenda package that goes to the council, other than Executive Session items, should be in a folder in Town Hall and in the public library so that people could see more detailed information than just the line item that's on the bulletin board and on the website. I think that would be helpful. The other thing I was reminiscing on was when I first moved to Milton, we had a Town Clerk. The Town Clerk administered this Town for years and years and years, so I don't see a big deal about what's being proposed. Secondly, I didn't even realize this, but Item 13.b, I think there's some misinformation in Robin's memo to the Council. The two lots are not conforming, according to the current standards of the 10,000 square foot lot, but if they are existing lots, they're buildable. Most of the lots in the new development, which for most people they may not know what that is, but that's between Bay Avenue and Atlantic Avenue and between Hazzard Street and the County Road out there, by the VFW. Those are all 5,000 square foot lots. They're all buildable. They don't have to meet 10,000 square feet, because they are recorded lots in the Town and I have had no concern with what the people on Mill Street want to do; it's fine if they want to join the two lots, but they don't have to. They're both buildable lots as far as I'm concerned.
- Richard Miller, Grist Mill Drive: Good evening Mayor and Council. On tonight's agenda, items h. and i. deal with a revision to Section 18 and 19 of the Town Charter and I would ask Council to reexamine their motive to doing away with either one of these positions of the Town Manager and/or the Town Clerk. In my mind, those two positions are mutually exclusive; each stands on its own and the Town, over the last several years has been moving in the great direction of defining responsibility; whether it's who's going to be the Public Information Officer, what the Chief's duties will be, and what the Committee responsibilities will be. This Resolution will get back to an either/or situation where the Town Council will either have a Town Clerk or, in your discretion, a Town Manager. They're two separate responsibilities and we were moving in the right direction

over the last couple of years and I'd like to continue that. One of those responsibilities basically helps policy; I'd say that would be the Town Manager. The Town Clerk, on the other hand, would be responsible for implementation of that policy and they are two mutually exclusive functions; the issue I have is that you consider the either/or proposition that's in the Resolution that you're going to be discussing tonight. They're two separate positions. If each one is staffed according to the Town's wishes and vision, we can continue to move forward, but to either/or this job function, I think is a step in the wrong direction. Thanks.

Mayor Jones: That closes the public participation portion of the agenda.

6. Additions or Corrections to the Agenda

Mayor Jones: Any additions or corrections to the agenda? If Council is willing and if counsel is willing, I would recommend that we move h. and i. up under 13.b and I'm sending that, under a. and b. because we have representatives here for both of those issues, that I'm sure also want to be heard. Would Council entertain a motion to move items h. and i. in the New Business, under 13.b?

Councilwoman Parker-Selby: Madame Mayor, I move that we move items h. and i. in the New Business, under 13.b.

Councilman West: I'll second that.

Mayor Jones: All in favor say aye. Opposed. Motion is carried.

7. Agenda Approval

Mayor Jones: Now we need an approval of the agenda, as it's now amended.

Councilman Collier: Motion to approve the agenda, as amended.

Councilman West: Second.

Mayor Jones: Any more discussion? All those in favor say aye. Opposed. Motion carried.

8. Mayor's Report

Mayor Jones: I do have a few things to share here this evening, with you. A number of things to share. We have some rather important meetings coming up in January. On the 18<sup>th</sup> of January we will have a Town Hall meeting, the second in this administration, an open forum discussion. A free shot at the piñata, as Mr. Miller has coined the phrase, which I like dearly. It will be from 10 am to noon on that Saturday. We welcome you all to come out. We really have no agenda and there will be no vote taken. It's just a fair and respectful exchange. That will be at the Library. Right now Mrs. Rogers and I are trying to put together, it's tentative, a date to begin to look at our Comprehensive Plan. Now I'm looking at Mr. Davis and he and I will talk before that date and find out just exactly what we need, to be in compliance; whether it's an update or the big overhaul, so that would be tentatively right now for the 22<sup>nd</sup>. Council and the Economic Development Committee are on target to meet on the 23<sup>rd</sup>. The Economic Development Committee is requesting, basically, a charge from Council; what our relationship is together, not unlike when Planning and Zoning came and met with Council. So that will be on the 23<sup>rd</sup>, here in the library. I would for the month of February, a couple of things to look forward to here. Councilman West, Tidewater has come forward and would like to make a presentation to the Water Committee, so we'll be needing you to schedule an appointment with your group and we'll get Tidewater in there to see you. Okay? Also in the month of February, I'd like Mrs. Rogers, if we could put on for consideration, for review and discussion and possible vote, we

had a recommendation come to us from Planning and Zoning for a moratorium on our LPD. It's a very serious matter and Council has paid attention to that. I'd like Council, in the month of February, to consider a review by our engineer of our sub-division ordinance 188 and the portion of Chapter 220, as it relates to the LPD. So, we're going to need to charge somebody to have a look at that. Councilman Collier has indicated that is it's own beast and need not come to him as a Charter Review item at this time. It's just very specific. Again, we heed what Planning and Zoning has indicated needs to be looked at. We just need to put a team together to do that. So that's going to come up on your February agenda. February is going to be busy. Anything else? We do. Also in the month of February, since we will be meeting on the 3<sup>rd</sup>, the Police Ad Hoc Committee met in the month of December. There was no Council representation at that meeting. They plan a meeting in February, on the 17<sup>th</sup> as a matter of fact, but at our February meeting of Council; again, they're looking for a charge from Council for a forward direction, if any, at this point; but it is something that Council should consider. Come prepared when we get to the February meeting to have some ideas or suggestions. We still have time to render those recommendations prior to their meeting on the 17<sup>th</sup>, so I'd appreciate feedback on that matter. I think that's all I have for you under the Mayor's Report, at this time.

9. Discussion of Written Committee Reports

Mayor Jones: You have a Water Committee report in front of you this evening. Councilman West was there anything specific on Item 1. It says here at your November meeting there was a discussion about costs for repairs of equipment. Any specific equipment that has raised this discussion?

Councilman West: No there was nothing specific.

Mayor Jones: Okay. Mrs. Rogers, I know that it is Mr. Russum's Department. Anything on the water line that's supposed to be drawn between Heritage Creek and Chestnut Street; do you know anything if that is in progress?

Kristy Rogers: Is that the Heritage loop?

Mayor Jones: Yes.

Kristy Rogers: I don't have an update at this point. I know it's been discussed.

Mayor Jones: Okay. Do you know anything about this, Mr. Savage. If so, would you come to the microphone please?

Carlton Savage, Pennoni Associates: The Heritage Creek water loop was a change to the original plan. Pennoni Associates did review that change and has given all the comments to the engineer. There should be one final set of plans coming back to us, but I haven't seen those yet, so that's they're all waiting on.

Mayor Jones: Thank you. Any other comments on the water report, otherwise we'll go on to the Department Reports.

10. Department Reports: Public Works, Planning & Code, Police

Mayor Jones: We have the Public Works report. I would like to say to our Public Works Group, who unfortunately are not here this evening, I thought they did a great job in your park this year. It was wonderful to see Memorial Park lit up and I was very proud to see it and they did a great job. Anything on the Public Works Report, Council? Code Department report. Mr. Davis, thank you for the extra information. I appreciate it.

Councilman Coté: Mr. Davis, on your report one of the items you indicated as a Dogfish Malt Grain Expansion site visit to review status of project. Could you give us the status of the

project?

Robin Davis: Yes, I went out and they are nearing completion; actually the building itself has had its final inspection by First State Inspection Agency. There are several items on the outside of the site plan that were missing; some of the landscaping; two of the lights that were removed for the construction, have not been reinstalled; and there was a sign issue that has not been installed going into the building. So that's basically about it, for that.

Councilman Coté: In some discussions I had with someone, who lives nearby, they mentioned the gate; now that gate is an open grate gate and somebody thought that the plan called for a closed, a full door, as opposed to an open grate, to keep the noise inside the building. Is that...

Robin Davis: I don't recall that conversation being held, but I can check into the plan to make sure.

Councilman Coté: Thank you.

Mayor Jones: Mr. Davis, the date on this report is December the 30<sup>th</sup>. The final comment on your report, has anyone come forward for a fence permit?

Robin Davis: I'm not sure. Mr. Lawson was supposed to. I'm not quite sure. I didn't get a chance to speak with Mr. Trotta this afternoon about that. I know that he had conversations with Mr. Lawson about that fence.

Mayor Jones: We've waited a long time anticipating Mr. Lawson's submission of a building plan. Am I correct in stating that?

Robin Davis: During the last conversation about the fencing, Mr. Trotta indicated that Mr. Lawson is now going to remove all the outside storage. So the direction that Mr. Lawson is going is not to have any outside storage on the site, at all. I think it all came down to the cost of what it would take to build an additional building there.

Mayor Jones: And this permit for a fence, is that around the perimeter of what is now used on the corner of Hazzard and Atlantic?

Robin Davis: I think that's where it was going to go. It was going to run tie into his \_\_\_\_\_ building, head towards Hazzard Street along Atlantic and then turn down Hazzard Avenue a little ways. I don't think it was going to go across the complete front, because he still has to get his trucks in and out of there. But he is basically going to clean up that corner.

Councilman Collier: Mr. Davis, do we have a time frame for this to happen; this has been ongoing for quite some time and isn't it about time we say, look you've got 30 days, or we take action; or 60 days and we take action. I think we're past that stage, but you have to draw a line in the sand somewhere.

Robin Davis: The fence, there was no requirement for a fence; so that's not an issue. He's just doing it to help kind of soften that corner up.

Councilman Collier: I understand.

Robin Davis: Yes, as far as the removal of the outside storage, Mr. Trotta I think did send him a letter corresponding with the building permit, that is pulled for that; there were so many days to get the outside storage stuff cleaned up in conjunction with that.

Mayor Jones: They have pulled a permit for that.

Robin Davis: I think they had. I know they have gone through the process. I'm not sure if they have picked it up, or not.

Councilman Collier: Would that be 109 Hazzard Lane?

Robin Davis: It wouldn't be Hazzard Lane. Hazzard Lane is out off of Federal.

Councilman Collier: Okay, I saw Hazzard on this and I don't see anything for an address on any of it. Three streets at that property \_\_\_\_\_ on for permits issued to date.



Robin Davis: It could have been at that time when Mr. Trotta finished his report, it wasn't issued at the time. He might have it on file, but it wasn't signed for yet.

Councilman Collier: Nor do I see in this report, that there were any certified letters issued to that address either; that's why I questioned this. I mean, this has been an ongoing thing for quite a long time and I'd like to think that we could at least project when it might come to completion and there's no indication here of this stuff.

Robin Davis: I'll follow up with Mr. Trotta and I'll have it on next month's report.

Councilman Collier: Alright, thank you.

Mayor Jones: Any other questions on the Code report? Police report.

Councilman Collier: I have a question for the Police Chief. Chief, last month on the report that you turned in, there was a block that indicated number of vehicle patrol hours; foot patrol hours; and some other items along that and it was a breakout of manpower hours and as I recall, when you were given this new format to follow, that was part of the format and I notice on this month, these hours are not here, nor is the block any longer. I think that initially, when I asked you last month, you told me that you were still working on figuring that out and I was just wondering where we're at at this time, since it's not included in this report either.

Chief Phillips: That's correct. We have to change our evaluation system to coincide with this and we're still trying to get it to work with that.

Councilman Collier: Any idea when we can anticipate starting to see that information?

Chief Phillips: With everything we have going on, as soon as I can figure something out. That's what we're working on, as we speak.

Councilman Collier: Alright. Thank you.

Mayor Jones: Are the complaints that are reported here, do they include out of jurisdiction, because I don't see Assist Other Agency, this month and I just wondered if that's been eliminated, or did we just not have any?

Chief Phillips: I don't see it on there either. There were some, yes there were. Like I say, we're just in the process of trying to figure out how to make this thing work and we just have to get our numbers together and figure out what needs to be on it, so it doesn't take up too much...

Mayor Jones: Okay, well if you would be so kind as to at least reinstate that patrol data, door checks, man hours; it will have a holding place on the report and it will keep us mindful to continue to watch for that. I do still have that format for you, if you want a copy of it; if you're having any trouble with it. Any other questions for the police report?

Councilwoman Parker-Selby: I guess I need to ask, basically I wanted to ask the Chief, when we come hear the reports, you're saying that your computer system; is that what you're saying that your computer system isn't taking all the data?

Chief Phillips: This is all new to us. It came from another department and we're just trying to get the bugs out of it to make it work and coincide with what we had; how we're gathering information now, we're going to have to reach back out to that agency and figure out how they do it, so we can mirror that to make this thing work, is what I'm getting at.

Councilwoman Parker-Selby: But it doesn't have anything to do with our computer?

Chief Phillips: No, Ma'am.

Councilwoman Parker-Selby: Okay.

11. Finance Report and Revenue/Expenditures Report

Councilman Coté: When we look at the report, the year-to-date for the General Fund shows a deficit, but mainly because the taxes don't get recorded until they're billed; which will be in

January and then we'll start collecting the money after that. In the meantime, we borrow money from our savings until the taxes come in and then we repay the savings account. I will do a little of this. Contrary to what you may have read in the Cape Gazette, the Town is sound, the transfer tax account still has approximately \$170,000 in it, after the purchase of 112 Federal Street and the audit for 2013 has basically wrapped up and we will be having a preliminary meeting to review the draft in the next month or so. We have a few questions and one of them is about one of our favorite topics, the Miscellaneous Accounts Receivable...

Mayor Jones: Love that one.

Councilman Coté: We will have some discussions on that, because some entries... The auditor's made some entries last year, before I was on board, which are no clear to me, so I would like to get back together with them and make sure that our detail agrees to our Balance Sheet balance and everything's in good shape.

Mayor Jones: We're going to have our first quarterly budget review in the month of February, are we not? Okay. I have a comment, a little research, if you will, for both Robin and Kristy. On Page 10 of the Budget Transaction Audit Trail, under Code Violation Expenses, 650-5200; just as a test case, because they're isolated. There's five cases of mowing lawns on the 26<sup>th</sup>, or at least this was the posting date, the 26<sup>th</sup> of November and we paid the contracted lawn service \$35 for each one of those cuts. I would like to make this a test case, to find out when we turn around and bill these at \$200 apiece, if we're collecting anything at all. In fact, I'd like to go so far as to understand that since we raised this cutting fee to \$200; what has been billed and what's been collected? My guess is we haven't collected much and this Accounts Receivable, just like Councilman Coté stated, is really just becoming a greater ball and chain around our necks. If we're billing it too high and it's unrealistic to collect it, we have to look at that too. We also, I think, need to look out and Mrs. Rogers is working on formulating that how to, to make sure that we continuously try to recoup that money for our Accounts Receivable, right now, which is again, heavy around our necks; money we could use. So between Mr. Davis and Mrs. Rogers, could we just play the game and track these five and see where they stand; they're not very old, so they probably only went out with one notice, so far, but I'd be interested in knowing the overall situation of paying out for each one of these lawns, as opposed to what we're recouping, if anything.

Robin Davis: Madame Mayor, if I may, again Mr. Trotta usually handles all the contracting for the grass cutting, but I would say by looking at some of the addresses, the majority of those are either in foreclosure or have vacant properties; so by not cutting the grass, we're at a dilemma of just letting the grass grow. I see that's going to the majority of it. So we're going to have to formulate a plan to somehow say, how are we going to recoup that, because sending bills out every month for this is not going to get it done; probably for the majority of them. But if we don't cut the grass, we're going to have an issue with that.

Mayor Jones: Let's say you cut a property three times, you have a \$600 bill. Is it time to put a lien on a property? Where do you draw the line, as opposed to getting some money out at the cost of that lien? Because there has to be some remedy to this. It keeps going on the books. We keep paying for it. Understand we need neighborhoods that look nice. Everybody wants to look nice, but to what cost to Milton is my point?

Seth Thompson: There's normally about a \$58 recording charge for any lien, so that's really the cost analysis. Now you can claim, I'll double-check your Charter, but I think you can claim that recording cost from the property. The question is then, the order of priority of the liens. If it's like most foreclosures, where the bank is buying the property back, the question is whether the



Town's lien takes priority over the first mortgage; so if the Town's lien has priority over that mortgage, then the Town's going to get that money. If it's not in priority, if it's inferior to the mortgage, your lien gets wiped away at the sale.

Mayor Jones: And if we continue to bill and apply it to our Accounts Receivable, it just goes up and up with no hope of recouping it anyway; so you almost have to give it some logical thought at the point of billing it out.

Kristy Rogers: And at the time, if the property does sell, we are most of the time with the lien certificate, so at that time we do review the Accounts Receivable list, as well as any outstanding utility balances and tax balances to report; we've had one lately. We did collect about 5 or 6 Code Violation invoices on that property.

Mayor Jones: Excellent. Is that a pretty smooth deal between yourselves; is that the Sheriff?

Kristy Rogers: Most of the time, or anybody interested in purchasing the property, other than the Sheriff, through a regular settlement process, they're fairly smooth. We just send proof of any invoice and documentation that we have and most of the time we will receive the full amount.

Mayor Jones: Thank you.

Seth Thompson: Mrs. Rogers, do you get notice typically of the foreclosure complaint being filed, prior to the sale obviously, the complaint that starts the action?

Kristy Rogers: Not usually, we just receive the Sheriff's Notice.

Seth Thompson: It's interesting. I think the Town is probably a lienholder, if they haven't paid their taxes. There's an argument that the Town should get notice, as a lienholder, of the foreclosure being filed; in which case you could run in and then file your lien. I suppose that's two sides of the same coin. If they recognize you as a lienholder, then seemingly they're going to pay your lien, as long as you're in priority and then there's no point in going ahead and recording the lien.

Mayor Jones: Does a municipality with a tax lien, sit anywhere in priority? It's hard to say.

Seth Thompson: Typically your tax liens are higher; the question is whether something for grass cutting; and I'll take a look at the Charter; to see if that's given priority too. If there's blanket priority for all debts owed to the Town.

Mayor Jones: Anyone else on our Finance Report?

12. Old Business – Discussion and possible vote on the following items:

a) Water Meter Upgrades – status and next steps

Mayor Jones: Do you have anything? Mr. Russum was not in today.

b) Method of disposal for surplus equipment and inventory (update)

Mayor Jones: Are we naming a date, at this point? Are you going to tell us what's going on?

Kristy Rogers: A couple of weeks ago, the Chief, Mr. Russum and myself met with Mr. Ben Twilley from Green Gavel Auctions; trying to move forward with scheduling an auction. He was tentatively available the first weekend of November; he took an inventory around Town of the lists that we had created. At this point, I think between the Chief, Mr. Russum, and I talking, we would like to ask Council to push off the date until the spring, to give us not only more time, but more favorable weather to schedule the auction.

Mayor Jones: I have no objections. Anyone else on Council?

Councilwoman Parker-Selby: No, I agree.

Mayor Jones: Has Mr. Wingo figured out what to do with all the equipment? I know it was

kind of underfoot while he waited. Are they going to be able to get that where it's manageable for him until it goes on sale? Okay. Thank you.

c) Update on the Punch List for Cannery Village

Mayor Jones: We have an update on the punch list for Cannery Village. You've been provided a copy. If you will be so kind, bear with me just for one moment. Mr. Thompson, is this punch list official?

Seth Thompson: It is. I wanted to let and maybe Mr. Savage wants to chime in. To answer Mr. Kost's questions from before, we have everything from the Town's Engineer. The developer saw roughly 95% of it previously. The Town's Engineer has gone through and double-checked what was previously identified for the punch list and they're broken out into a couple of different lists. In terms of fixes and then items that are just not there and need to be added. So at this point, unless Council has questions, we can forward the complete list onto the developer. The developer is then going to I'm sure give us some sort of response; I saw Mr. Savage indicated that perhaps the developer is going to come forward and ask for dedication in pieces of the property, or of the roads, based on what's been done and what hasn't been done. Obviously that is in part up to the developer, in terms of how they want to handle it, but as far as my view as the Solicitor, I think we are ready to go forward and send it on to the developer. Again, none of this should come as a surprise. The developer knows that the "final" punch list is going to have a few additional items.

Mayor Jones: Does that answer your question, Mr. Kost? Thank you.

Councilman Coté: I did have a couple of questions on this version of the list and the first one... this is a lengthy list and in looking at it and maybe I'm just not seeing it correctly, so if you can help me out, on the Lanes, which the Town will... at present the Town is not anticipating taking over the Lanes; but there are a lot of rough spots, low spots, high spots. I saw the Dorsey situation mentioned; but as I go out of... there are other Lanes that have... where the storm drains are too high and there's ponding and not as bad as Dorsey. But I couldn't determine if those situations are in here and if... Does the completion of this list, relieve the developer of all responsibility for any of the general work in the development?

Mayor Jones: And I want to ask a question on to that. Let's be clear about the alleyways; are they not part of the dedicated roadways that Cannery Village will turn over and will that be stated someplace?

Seth Thompson: I'll defer to the engineer on that.

Mayor Jones: Okay. Would you please?

Carlton Savage, Pennoni Associates: My understanding is that the entire list is there, in front of you. All the items, even though they are very hard to determine, a lot of them, we have walked, we have looked at them. The only thing outstanding that would not be on this list is final pavement. Some of the items are very hard to determine, such as the ponding of streets; some of these roadways have been out there for several years, so they may be ponding now, but it may be because the pavement itself is just collapsing a little bit. Once they fix some of these items, that should fix other additional items; so there will still be a final walk through for final pavement, before the responsibility will be turned over to the Town.

Seth Thompson: In terms of the Lanes, Mr. Savage, did you...

Carlton Savage: I have to look into that. I believe the Lanes, the alleyways, are in the right-of-way of the Town and that's what the punch list does reflect. In terms of some of the

private sidewalks that go outside the right-of-way, there might be a couple of punch list items on that, but very few. Those are sort of developer items, but anything in the right-of-way to dedicate it to the Town, should be on this list.

Robin Davis: If I may, it is noted on the plans for Cannery Village that the alleys will not be turned over to the Town.

Seth Thompson: On the sub-division plans?

Robin Davis: Correct. It is noted.

Carlton Savage: Okay.

Robin Davis: Yes, because of the design of the alleys.

Carlton Savage: So in that case, some of the items on the list may, in fact, be on the punch list, but maybe not turned over to the Town.

Seth Thompson: In my mind, they're still appropriate to be on the punch list, in that it needs to be completed, pursuant to the plan. I think that answers your question.

Councilman Côté: Yes, thank you.

Mayor Jones: So not the continued responsibility of the Town; who assumes responsibility of the alleyways?

Robin Davis: It's going to stay either the Homeowner's Association or the developer.

Mayor Jones: Okay.

Councilman Côté: Even for those portions of the alleyways that the Town has addressed people's homes to?

Robin Davis: It says on the plans that all alleys, within Cannery Village, will not be turned over to the Town; will not be dedicated to the Town.

Councilman Côté: And the Town gave people addresses on those alleyways?

Robin Davis: Because you have no choice, because you have some of those houses that do not have a street in front of them, so they have to be addressed to the alley.

Councilman Côté: Okay.

Robin Davis: Yes, the developer, during... I wasn't in this position at the time this was... but this, of course, has been discussed at length several times. During the design phase and the review of this project, CABA Associates, our engineer at the time, noted the design of the alleys and the concerns, as far as snow removal and things like that and a request was made to the developer to redesign, the developer said no, so that's why it was noted and it was agreed upon with the developer, that they would not get turned over to the Town.

Councilman Côté: So in all that discussion, one of the things you just said was that you weren't sure whether the developer or the Homeowner's Association would maintain the Lanes.

Seth Thompson: I think they're one in the same entity. Normally the developer has control until he turns it over to the Homeowner's Association.

Councilman Côté: Eventually... right now it is the same, because they control the Board; but eventually the homeowner's will control the Board, control the Homeowner's Association, so the developer will then just walk away from that? Is that what we're saying?

Seth Thompson: Well the roads should be dedicated to the...

Councilman Côté: Lanes and alleys.

Seth Thompson: I'm sorry. You're right.

Councilman Côté: Lanes and alleys.

Seth Thompson: Lanes and alleys should be dedicated to the Homeowner's Association. Normally there's a formal dedication process. Now it wouldn't necessarily involve the

Town, but normally the developer typically goes through the formal process and officially turns everything over to the Homeowner's Association.

Councilman Coté: Okay. So we will get to do that. I have two fairly specific, very specific questions now.

Carlton Savage: I'll try.

Councilman Coté: In the section called New Work Items and it says under lot number, house number, it says 109 Village Center Boulevard. I'm still trying to figure out where that is. The first house on Village Center Boulevard is 110. 109...

Carlton Savage: What was the work item for?

Councilman Coté: Curb, 20 linear feet. I assume "lf" is linear feet.

Carlton Savage: Correct. I would assume 20 linear feet would probably be a section of curb that's broken; something's wrong with it.

Councilman Coté: But...

Carlton Savage: But there is no 109, is that what you're getting at?

Councilman Coté: Yeah, I don't believe there is a 109 and if there were, it would be across the street and belong to Dogfish.

Carlton Savage: Okay, I can tell you that the original lists had a lot of addressing problems, similar to the addressing problems that have been going on with Cannery Village in general. My inspector tried to provide additional directions to each item and you'll see a column with kind of additional directions, or how he perceived it; because I believe the way it was walked, they walked down the main alleys, or the main roads, and then would kind of veer off into an alleyway as they saw an issue. And with that, some of the addressing continued with those alleyways. There may be a picture correlating to that item. I'll have to look. Do you know what item number that is?

Councilman Coté: It's Item number 20-n.

Carlton Savage: 20-n, okay, so it must be a missing section of curb. That sort of correction. I will look into that to see if it could be that he thought the next address over was 109 and that's why you have that and not 110.

Councilman Coté: And the next question relates to Acre Lane, as it runs off from Village Center Boulevard and turns left by the clubhouse. In the discussion of the tank farm, the issue was raised that there's a missing storm drain right there, which causes the ponding in that area and for the life of me, I couldn't identify it on here.

Carlton Savage: It is on there. You'll see two catch basins and a manhole in one location; fairly near the end of the list, I believe. It could be in the New Work Items even.

Councilman Coté: It seems like it would be, because there's nothing there now...

Carlton Savage: Correct. There were two plans that floated around...

Councilman Collier: It's item 40-n on the list.

Carlton Savage: 40-n, so there should be two manholes and a catch basin.

Councilman Coté: Is it 2CB, 1MH, and a pipe?

Councilman Collier: Yes, that's 2 catch basins, one manhole and a pipe.

Councilman Coté: Okay, thank you, so that would go all the way back out from that corner, back out to Village Center Boulevard?

Carlton Savage: Correct, now how they do that, given what the plans are, they're going to come up with whichever plan they and put those in. There is not a lot of direction as to how to fix the issues; it's just to present a punch list of items that need correction. So as I review these items, obviously if they do something incorrect, that will be the time to address those.

Councilman Coté: Okay. Thank you.

Councilman Collier: Mr. Savage, would it be safe to assume that actually this punch list is more or less like a semi-final inspection; that once they make the claim that they have addressed all these items, it will be subject to review again for complete compliance?

Carlton Savage: Correct. Each item will still have to be re-reviewed again by Pennoni Associates to 1) determine if it has been corrected and 2) is it now corrected sufficiently to be turned over to the Town?

Councilman Collier: Alright, I just wanted to make sure that that was understood by the public; that there will be another inspection after these are done. Thank you.

Mayor Jones: Anyone else on the Cannery Village punch list?

Councilwoman Parker-Selby: I just have one question. In looking at the notes, for example, number 61, I'm just picking one, because I've seen more than one; it says CB appears to be corrected. I have a problem with the word "appears"; I guess I want to make sure. Is it correct? No in between words like appears, that scares me.

Carlton Savage: Some of the items before we actually got a chance to go out into the field, were already corrected; so it's very hard to determine if something's been fixed, if you never saw the reason it was a problem before. So I probably reviewed that one myself. Standing there, it appears to me that the catch basin has been lowered correctly; however, that's why I gave the huge amount of pictures. That way you can see that the work has been done. Now it's correct. I'll try to eliminate the "appears".

Councilwoman Parker-Selby: Because the people will be saying, wait a minute.

Carlton Savage: It could be that they also have to pave to that basin; so it's possible that it's correct, but it hasn't been final paved yet. There's a lot more to it than just one item.

Councilwoman Parker-Selby: Right. Thank you.

Carlton Savage: I apologize.

Mayor Jones: I like you so much, Mr. Kost. Please, if you'll make it very brief. And you always have something intelligent to add, so please.

Ed Kost: I think the Council will appreciate this. During your discussion, I think Mr. Thompson said something to the effect that the developer was considering completing streets in phases. My only request is, if they're going to do that, please make them submit a plan, saying what the phases are; when they're done with a phase, it's turned over to the Town for dedication, completely. Pennoni Associates reviews it, we're done with that piece. And, also, if they're going to have phases, a written schedule. Thank you.

Mayor Jones: And just as a reminder, I believe Mr. Thompson would reiterate, that that was the original plan that was presented to Cannery Village if they were going to do this in phases; so he's well aware. Anything else on our punch list at this time?

Carlton Savage: I think some of the confusion of the phasing also, I wrote a letter; I don't know if you guys received the letter that summarized where the punch list stood. My actual recommendation at the end, was that there were two streets specific to me, Village Center Boulevard and the one that only has a couple of residences on it right now; those streets are missing quite a few items. They're the most recently constructed and they appear to not be complete. So it was my suggestion that those two streets be looked at as separate animals, per se, because there are a lot of missing items. That may have been where the phasing came in, Fulham Drive, I believe.

Mayor Jones: Thank you.



d) Security Fence Installation (update)

Mayor Jones: Do we have an update, Mrs. Rogers?

Kristy Rogers: The update that I have is that Mr. Russum and I met with two representatives from DEMA last Monday. The purpose of the meeting was to find out where we stood in the project. They did ask that if we don't have significant progress in this grant, that we do forfeit the money come March. I would ask that, since Mr. Ryan has been involved for the past few months on the project, that we could move forward to his proposal for the bid portion through the installation of the fence.

Mayor Jones: I'm not opposed to that, as it appears to be the best proposal on the table right now. It's a package deal. We know what we will get with his proposal. I would hate to give up the grant, because we haven't moved forward and January's very close to a March give up time. So what would Council's pleasure be on this?

Councilman Collier: I move to engage French and Ryan to move forward with this thing, in order to retain the funding.

Mayor Jones: The French & Ryan... We're waiting for a second first. I'm sorry.

Councilman Coté: Second.

Mayor Jones: French & Ryan gave us a proposal. I believe it was in your packages in December to go forward with this. Any discussion on that before we leave this and make a vote?

Councilwoman Patterson: Have they actually... Has anything come up with the layout of the fence on the hill, by any chance?

Kristy Rogers: When we met with Mr. Ryan, he was going to develop the plans. He met with Mr. Russum to figure out what style fence he wanted at all locations. Upon accepting his proposal, he was going to definitely show us the drawings.

Councilwoman Patterson: And the layout of everything?

Kristy Rogers: Yes.

Councilwoman Patterson: Great. Okay. Thank you.

Mayor Jones: Is it also fair to say that with the amount of the grant, we may be looking at 1) needing to prioritize where to put our fencing first and, 2) what phase... it may have to come in a phase. I don't know that that much money will cover the distance we were looking at for fencing the whole thing.

Kristy Rogers: That's correct. We were going to ask each proposal that each location be a separate bid, pretty much, so we can piece them together.

Mayor Jones: Okay. This fencing for anybody who hasn't been included, has to do with covering our well heads, our water towers and protecting them, even it's been anticipated our Public Works building. Any further discussion? All those in favor say aye. Opposed. Motion carried.

e) Proposed amendment to fee schedule to include escrow funds (update)

Seth Thompson: Hopefully everybody has in front of them an 8-1/2 X 14", I'm a classic attorney that likes to get paid by the word, so I took Council's comments at the last meeting and added in the additional language with regard to the escrowing of funds for applications. Basically, the new additions are that the Town may at it's own discretion, increase the initial required escrow funds, upon review of the application and determine that the particular application is likely to substantially exceed the standard initial escrow amount. So, in other words, if somebody comes in with a zoning change and it's very likely going to exceed

\$3,000, the Town can make a determination and say, based on the merits of this application, you're going to need a larger initial escrow. That's one of the elements. The other element, if the escrow funds are depleted below \$250 and the project is ongoing, the Town shall require additional funds in writing, of an amount reasonably calculated as needed to complete the application's process. So again, if it's for instance, a site plan that has a preliminary approval and then a final approval and the preliminary approval was a more lengthy process than anticipated, and that escrow has dipped below \$250, then the applicant would need to replenish that escrow amount and...

Mayor Jones: If I may. As determined by?

Seth Thompson: That would be determined by Council; I'm sorry, not by Council, by the Town; so again, it's most likely the Town probably would look to the Project Coordinator, I assume is the person most familiar with these types of projects and probably the person that is going to be able to best gauge what an appropriate amount would be, or if it's an appropriate amount and they're going above what our usual escrow would be. So the applicant would be given 15 days; they need to be notified in writing; then they'd be given 15 days to remit the new amount. If they don't remit it in a timely manner, then there wouldn't be any further review, work, meetings or approvals. Hopefully, that's what Council had in mind at the comments last time. The other items that I included were relatively small. The Fee Schedule refers to applications for sub-division. Your Code, technically, breaks that out into minor sub-divisions, major sub-divisions, partitions and lot line adjustments. So at the bottom, the double asterisk (\*\*) says that all of those are included. It also says that if there's an application to revise or have an amendment on any approved application, the same fee would apply. So in other words, if somebody is coming in and they want to revise their site plan, then they're going to have to pay another application fee, because seemingly they're revising something that's already been through the entire process.

Mayor Jones: The 15 days waiting for the applicant to deposit further money...

Seth Thompson: The thinking there was, if it's more than 15 days, the concern is that if they pay the last day, say you give them 30 days and they pay the last day; you're going to bump them an additional month in the process. If it's 15 days and they want to remain on track with the schedule, then seemingly the 15 days should allow enough time to keep on schedule and still comply with FOIA.

Mayor Jones: I'm only concerned that during those 15 days, that we don't have staff that is taking this applicant's issues to the engineer or to the attorney, in the meantime, while there are not funds to cover that. So you would have to be aware that funds are low and you don't want to engage a lot of professional services.

Seth Thompson: Logistically, the way I see it working, is that as you send that monthly invoice that shows their escrow drop below \$250; then along with that monthly invoice, you're going to send them the notice and say you need to replenish your escrow amount by X dollars. As long as they pay within those 15 days, they seemingly should be able to stay on track. We obviously don't want to delay something just based on the fact that their project took more time; but we also want to avoid the scenario where we have large Accounts Receivable.

Mayor Jones: Mrs. Rogers, will this work? Will it be helpful?

Kristy Rogers: It will be very helpful.

Mayor Jones: Any discussion, Council?

Councilwoman Parker-Selby: I just have a question. Out of town water \$70 availability

fees; what is the out of town mean?

Kristy Rogers: We have a few addresses on the outskirts of town limits that we offer water service to.

Councilwoman Parker-Selby: They're not annexed in? It's just water service only.

Kristy Rogers: That's correct.

Councilwoman Parker-Selby: Are they businesses, or residences?

Kristy Rogers: They could be business or residence.

Robin Davis: The Charter allows the Town to offer services; water and at the time, sewer services to any properties out of town, if they deem fit. If you have an out of town property that wants water resources, they do not have to annex in town. They can request to just receive services.

Councilwoman Parker-Selby: They don't have to annex in town?

Robin Davis: No. No. But Council has the option to say no.

Councilwoman Parker-Selby: Okay, I didn't know that one. I annexed in. That was about 100 years ago.

Mayor Jones: Off the top of your head, a ball park of how many we supply to that fall under this? Less than...

Robin Davis: Less than 50.

Mayor Jones: That's what I was going to say.

Robin Davis: Outside of Chestnut Street, just past the WBOC Building, Angerstein's; Atlantic Street, past the lift station out to the new entrance of Dogfish. I think they're the only two areas that really are the majority. Yes, Chestnut Street Extension and the Atlantic Street Extension.

Mayor Jones: Any further discussion? Hearing none, do I hear a motion to approve the Fee Schedule as...

Councilman West: Madame Mayor, I make a motion that we adopt the proposed Fee Schedule.

Councilwoman Patterson: Second.

Mayor Jones: Any further discussion? All those in favor say aye. Opposed. Motion is carried.

13. New Business – Discussion and possible vote on the following items:

- a) Referral of the subdivision application from Fernmoor Homes at Heritage Creek for Phase 6 of Heritage Creek to the Planning & Zoning Commission. The property is identified by Sussex County Tax Map and Parcel #2-35-20.00-56.00

Mayor Jones: Is there anyone here from Heritage Creek that would like to speak on behalf of this application?

Mike Coven, George, Miles and Buhr: I apologize. I left my easel behind this evening. I'll make this very brief. We're asking you to refer the Phase 6 application to Planning and Zoning Commission. It is the area outlined in black, here; so it's this area outlined here, that would include the streets that are shaded here, which is an extension of Governor's Boulevard and portions of Prospect Street, Hay Street and Fox Street and an extension of Garden Street out to Fox Street. There are a total of 69 lots in this piece, the bulk of which are townhomes, 60; two duplexes; three triplexes and four single family homes, which are in this group here. The townhomes are all front load; this one block is rear load. We're asking that you go ahead and refer the application to Planning and Zoning Commission.

The only other thing that I would mention is that plans that were submitted are in conformance with the approved Master Plan for the sub-division.

Mayor Jones: I just want to be educated properly. We're talking about rear loaded homes; again; as we had approved in another phase and as is happening in Cannery Village.

Mike Coven: These are on a public street. The only case like that in Heritage Creek, is right here. That's done. You won't see anymore...

Mayor Jones: We thank you.

Mike Coven: front loaded on open space.

Councilman Collier: Would you point out again where the rear loaded homes are?

Mike Coven: It's this group right here.

Councilman Collier: Okay and that's just on that particular side of the street, that they're rear loaded, or is that both sides of the street?

Mike Coven: No, just that side of the street.

Councilman Collier: Okay, so it's a single side.

Mike Coven: The townhomes are on the opposite side.

Councilman Collier: Okay, thank you. That's not quite the same circumstances we have in other places.

Councilwoman Patterson: Right, because it's a main street, not an alleyway.

Mike Coven: Yes. Yes.

Seth Thompson: The addressing isn't an issue.

Councilman Collier: Okay, thank you.

Mayor Jones: Again, let me say thank you for that.

Mike Coven: Not a problem.

Councilman West: And to clarify, there will not be an address issue.

Mike Coven: No, Sir, not on these. There was only one place in the sub-division where that occurred.

Mayor Jones: This is in front of us to refer this onto Planning and Zoning. Do I hear a motion to do so?

Councilman West: Madame Mayor, I make a motion that we refer this to Planning and Zoning.

Councilwoman Patterson: Second.

Mayor Jones: Any further discussion? All those in favor say aye. Opposed. Motion carried.

Mike Coven: Thank you.

- b) Request from James & Diane Hake for the consolidation of two lots into one lot. The lots are located at 314 Mill Street (Parcel # 2-35-20.08-48.00) & 316 Mill Street (Parcel #2-35-20.08-49.00) and are zoned R1 (Residential)

Mayor Jones: You have this information in front of you with a cover sheet from Mr. Davis.

Councilman Collier: I think this is fairly simple.

Seth Thompson: Basically they're taking two non-conforming lots and making them a conforming lot.

Councilman Collier: That's it, essentially.

Robin Davis: Yes and the reason for this, Mr. and Mrs. Hake are here; but what they're doing is they're proposing to add onto the back and to the side of their home; so in order to do this, they do need to consolidate these two lots; or they would have to go to the Board of Adjustments for another non-conforming addition.

Seth Thompson: Robin, do you know if they plan on recording a deed, or are they going to record the survey?

Robin Davis: As far as I know, the survey; the new survey will be recorded, once we stamp it.

Councilman Collier: Is that your intent, to re-record the lot lines? Alright thank you. Motion to approve the consolidation of the lots, identified... I guess it's not identified in the cover letter. They are known as 314 and 316 Mill Street.

Councilman West: Second.

Mayor Jones: Any further discussion? Hearing none, all those in favor say aye. Opposed. Motion carried. Congratulations.

- h) Resolution requesting an Amendment to the Milton Town Charter Regarding the Town Manager and Town Clerk

Mayor Jones: I'm going to actually turn to Mr. Thompson and I hope that he can make this process a little less scary, as what we have in front of us is really not scary at all; it's more like housekeeping, at this point. So please.

Seth Thompson: Certainly, Mayor and Council, typically the process for requesting a Charter change is that the Council would pass a Resolution requesting that the Town's Senator and Town's Representative sponsor a bill at the State Legislature to make that Charter change. Now you don't have to use your Representative or your Senator, but that's typically the easiest way to get it done. Here, and you can see that I attached a Draft Bill to the Resolution and what's it doing is in Section A, basically the Town Council is currently required to hire a Town Manager; that's in Section 18-a of the Charter and then Section 19, you're also required to hire a Town Clerk. So in both instances, the word shall is becoming may and then additional language is inserted. The reason for that is I want to make clear that in the event that the Town Council elects not to hire a Town Manager, the Town Clerk has all the authority that's vested in the Town Manager, in the Charter. Otherwise, the Draft Bill would basically be the entire Charter and we would have to change Town Manager to be Town Manager or Town Clerk. So, this seemed to be a more straightforward way to do that, without asking your Senator and your Representative to sponsor a 30-page bill. Again, the process is, if Council approves and the Resolution discusses logistically how it would work; that the Mayor could send the Draft Bill to the Senator and the Representative requesting that they sponsor it and very often the Town will have a Representative at the Committee Meeting when it gets assigned, to address any sort of concerns. It might be helpful to have some sort of data, or give some more reasoning as to why the Town isn't in a position to need a Town Manager and a Town Clerk. I think that's helpful so that your Representative or your Senator can answer any questions that come before them. That's in a nutshell. The one thing that I would suggest, typically Towns don't like to send a number of Charter changes to their Representative and Senator; so if you have any other pressing issues, I might suggest doing it now, rather than inundating your people with a number of different Charter changes. Again, if there's something very pressing out there, it might be good to consolidate the issues.

Mayor Jones: If I may, we have already in progress a Charter Review Committee, who've been working on other issues. I didn't anticipate they would wait a number of years before they went for an initial Charter change, simply because it can take years to review all that needs to be looked at; but rather than send this forward as an isolated item, I'd like to check



with our Charter Review Committee and see if they have anything else that could go forward, at this time, as well as review this request. So would it be appropriate to ask for a motion to forward this to our Charter Review Committee, then to come back to us?

Seth Thompson: You can certainly do that.

Mayor Jones: I think that would be the proper procedure.

Councilwoman Parker-Selby: I think so, as well, because at the end of the legislation last year, we were asked do we have any changes? I was just coming on at that time and I thought to myself, having been here nine months and looking at the Charter and the Codes, there's definitely a need to do a lot of reviewing and changing, so rather than go one little piece at a time, which I do know they don't like that, I agree wholeheartedly and I make the motion that we send this one on to the Charter Review Committee.

Councilman West: I'll second that.

Mayor Jones: Now, under discussion, Mr. Thompson I want to make sure that by asking for that motion I'm not undoing exactly what you just said, which is to send it in small increments. Right now, it is a matter of compliance. We would not be in compliance if we used the word "shall" as it is written and we have some other things that I think also are in our Charter, that could be looked at, that have some "shalls" behind it that would put us in non-compliance, but right now, would it be acceptable to get a recommendation back from the Charter Review Committee and then go forward to our legislators, with those recommendations?

Seth Thompson: I can tell you from experience, typically the legislators like a full process at the Town level, before they receive a Charter change. It gives them a little more authority and just some more public input, because it is difficult to get some public input at the State legislature level. They have a Committee meeting and that's when people can speak their mind, but very often it's better if those issues have been addressed ahead of time. If you're going to ask somebody to sponsor a bill, you may want to vet that bill ahead of time.

Mayor Jones: So our legislators can be fully aware that our townspeople have had the public hearings necessary to hear the issue before it has come to them, is your recommendation?

Seth Thompson: Right.

Mayor Jones: Okay.

Seth Thompson: And very often, coming out of whatever public hearings or whatever recommendations are made, I think typically sponsors of bills and anyone reviewing the bill at Legislative Hall, likes to see some facts basically supporting why the bill is appropriate and those often end up in the synopsis of the bill.

Mayor Jones: Is there any other discussion? We have a motion and a second on the floor to refer this to the Charter Review Committee. All those in favor say aye. Opposed. Motion carried.

i) Resolution Designating Duties of the Office of Town Manager

Seth Thompson: And this is somewhat in conjunction with what we were just discussing, in that the Town currently doesn't have a Town Manager. There are some duties in your Town Code, especially this deals specifically with Chapter 26, our Personnel issues, so really Town Administration issues; where the authority and the duty is prescribed to the Town Manager. Your Charter does allow you that in the case of absence or disability of the Town Manager, the Council can designate somebody to perform those duties, so I haven't put in a

timeline, but this draft Resolution would authorize those duties to be performed by Kristy Rogers. Again, it's limited to Chapter 26, your Personnel portion of your Town Code.

Mayor Jones: Understand that at present under Chapter 26 there's not really anybody administratively who's holding that authority at this time. That's becoming an issue. I know the Personnel Committee has discussed this and I think it was recognized that some of those duties in Chapter 26 were necessary for Mrs. Rogers to take on at this time, even in the interim position, as we go forward with a number of personnel issues.

Seth Thompson: Again, I left the time period blank. I also included in there that it would expire upon either X number of months, appointment of a Town Manager, or additional action by Town Council. So it's not an open ended ticket. Any of those items would essentially end the Resolution.

Councilman Collier: Well if we want to get a Charter change in this legislative session, the latest date that would be completed some time in the month of June?

Seth Thompson: June 30<sup>th</sup> is the last day.

Councilman Collier: June 30<sup>th</sup>, so in order to get that properly presented, we're looking at a timetable of probably having it in the hands of our Representative probably late March, mid-April, somewhere in that timeframe? Does that sound about right?

Seth Thompson: Yes, they come back from Joint Finance Committee mid-March and the difficulty is this is the second leg of the two-year session, so it would have to be reintroduced if it doesn't get done this year; I would aim for mid-March, early April.

Councilman Collier: Yes, well that's what I'm thinking, mid-March – early April. I can say that with that in mind, that probably we want to act on this Resolution for a period of no less than six months, because any changes we may implement or otherwise; so that would be my recommendation that we at least give it a minimal amount of six months on this particular Resolution. If you'd like that in the form of a motion, I can give that to you. Alright, I guess we're making a motion and you can second it and then we can discuss it. Okay, I'd like to make a motion that we fill in the blanks on this Resolution designating duties of the Office of Town Manager; first of all the first blank is the expiration of six months for the appointment of a Town Manager or further action by Town Council designating said powers and duties, which ever occurs first. I would say that it would be effective today, if the Resolution would pass; so that would be my motion.

Councilwoman Patterson: I second.

Mayor Jones: Any further discussion by Council? All those in favor say aye. Opposed. Motion carried.

c) Various Code changes proposed by Code Enforcement

Mayor Jones: I did meet with Mr. Trotta and Mr. Davis discussing some email inquiries; some persistent questions about code violations and asked them to come up with some ideas; present them to Council; those items that they would like to see considered for change, revision and you have those proposed code changes in front of you. This is the first time. I must admit this, I believe is going to come back to the review committee.

Councilman Collier: Mr. Davis, who authored the cover letter?

Robin Davis: That was Mr. Trotta. Very sorry.

Councilman Collier: Well I'd like to put a motion before the Council that we refer this also to the Charter and Ordinance Review Committee; busy fellows that they are, but I want to add something to this. In order for this to be a smooth and effective process, I would like to

ask that the Council authorize Mrs. Rogers to direct Mr. Trotta to flex his hours on the date of that meeting and appear, so that he can explain to us exactly what his logic is behind this, rather than us, as a Committee, trying to second guess him. So I would like that to be part of the motion, as well.

Councilman West: I'll second that.

Mayor Jones: Does everybody understand that motion. It is going to be... The motion is to forward this to the Charter and Ordinance Review Committee with the appearance of Mr. Trotta in front of that Committee, to explain these.

Councilman Collier: But I want him to flex his hours. I don't want to pay the gentleman overtime, so on that particular date, I would ask that he be scheduled to arrive at a later time so that it covers his normal day, whatever are his normal hours.

Robin Davis: If I may, Councilman Collier, could it be that the time could be done during the week; as long as it doesn't go over the 40 hours?

Councilman Collier: That's fine, as long as it's during the week and that's the idea behind flexing the hours for that particular day.

Robin Davis: Yes.

Councilman Collier: If we're going to meet that evening, instead of him arriving at 8:00, maybe he arrives at 10:00.

Robin Davis: It's nice to do it after the meeting, because we don't know how long the meetings will last; so if he...

Councilman Collier: That's fine. Just as long as that's understood, that I don't want to get involved in paying the gentleman overtime for this and I can't make my committee available during the regular business hours.

Robin Davis: Understand.

Seth Thompson: I think my only comment, there's a reference to putting the \$50 per hour fee, under the Fee Schedule; if the notion that it's truly a fee, then I suppose that's okay. If the notion is that it's punitive in nature...

Councilman Collier: This is stuff that we will cover... This is why I want him to hear too; explain his logic behind this. Because we just spent a large amount of time working on the Fee Schedule and how it's structured, so that's why I would like the gentleman to be there, because I don't want to second-guess what his intent is.

Councilman Coté: Just to go a little further with that, there was a time when the Code referred to the \$50 for the grass cutting and then I thought we changed that section to just refer to the Fee Schedule, which says \$200, which is what we've been billing people since last summer sometime.

Councilman Collier: Councilman Coté, I would expect that he's probably reading a version of the Code that may not reflect that, because of that being a recent change and the updates that we get only come out on a semi-annual or annual basis and he may not see that in the book that he actually has to work from.

Councilman Coté: Uh-huh.

Councilman Collier: That may be where that comes from and that again is why each and every one of these items I would like the gentleman to appear and explain his position on these, so that we understand he can move forward efficiently with it, instead of trying to second-guess.

Councilman Coté: Okay.

Mayor Jones: Further discussion. Mr. Davis, did Mr. Trotta bring this list to you; have you

reviewed it and do you concur?

Robin Davis: Yes, I spoke with Mr. Trotta on this and that's one of the big things, which is the grass cutting. He had presented, if not the same list, the majority of the list to the Town Manager previously; we just had never moved forward, so that's why basically this list has come back. What I spoke to him last about, was the combination of I think, Chapter 152 and Chapter 158; there are areas where the grass is discussed in both sections and one of them says we charge penalties and fines every day; the other says we cut the grass and bill you; so that's where a lot of this was brought up. There are several other issues that myself and Mr. Trotta maybe would like to add to this list, or maybe at a future date, but thought maybe this would be something as a priority to start on with.

Councilman Collier: That's fine. Thank you.

Mayor Jones: We have a motion and a second on the table. Everybody ready to vote? All those in favor of referring this to the Charter and Ordinance Review Committee say aye. Opposed. Motion is carried.

d) Proposed Police Department rank structure

Mayor Jones: The document in front of you takes the place of the present rank structure. There have been some changes made. It was the recommendation of the Personnel Committee that this document accompany any police retention adjustment that was made and that this rank structure be adopted at the same time. There is writing on the back too, for your review.

Councilman Collier: I'd like to move that we adopt this document, or at least this structure. I think it covers all areas. It designates how many positions, at what particular rank we have; what the minimal requirements are to be promoted to that rank; it's very clear and concise as to what's what.

Councilwoman Patterson: I second. I do think it's very clear and concise. I recall a draft of this, but it just has everything laid out very easy for Council to look at and the Police Department.

Mayor Jones: Chief, what kind of adjustments and amendments will you need to make to... may I assume it's your S.O.P. under promotions and/or rank structure? Will you need to make those in your paperwork?

Chief Phillips: Yes, Ma'am. We just have to add this to it and just draft this right into it and replace what we have in there. Yes, Ma'am.

Mayor Jones: And Mrs. Rogers, did send this on to you before the Council getting it's final version tonight?

Chief Phillips: Pardon me. Can you say that again?

Mayor Jones: I said Mrs. Rogers did send this on to you at the request of the Personnel Committee, so you reviewed this before this evening?

Chief Phillips: I'd seen it before, the night of the Personnel Committee meeting. Yes.

Mayor Jones: Any other comments on this document?

Councilwoman Parker-Selby: Maybe a question/comment per se. Now the Chief, I'm making sure I understand it, I'm just the last person when we finalized this and I've looked at it, but I want to make sure I'm clear; the Chief, all promotions and appointments are at the discretion of the Chief, except Captain and then it is our duty... am I understanding the Town Council, Chief submits to us a list of candidates; or just to the Mayor, to approve for Captain? Why are we doing it like that?

Councilman Collier: It would be my thought that the Captain would be the highest ranking non-contractual employee and essentially is the administrative commander, acts in absence of the Chief and I think that that requires... It shouldn't be just a promotion based on being able to pass a test and meet the time and grade... I think it requires a little more consideration than that. That's what I recall, is why we did this this way.

Councilwoman Parker-Selby: I missed that particular meeting.

Seth Thompson: Councilwoman, you're correct though. On it's face, it would be the Mayor that would make that determination. It wouldn't be the Council, as a whole.

Councilwoman Parker-Selby: Okay, that's what I was trying to figure out. Making sure. I saw that, I'm just making sure. Okay.

Mayor Jones: Any further discussion? All those in favor...

Councilwoman Parker-Selby: One more question. I'm sorry. I noticed there's a test, in highlight here. It would be the responsibility of the employee to notify the Chief of their eligibility for promotional testing. Now, do all of the officers get this promotional testing at the time you're ready to promote, or how does that work? Can you explain it to me, please, Chief? Promotions.

Chief Phillips: It would all depend if they had their time on and if there were any openings at that time.

Councilwoman Parker-Selby: If you had openings and if they had the time in, meaning the years, per se?

Chief Phillips: Yes.

Councilwoman Parker-Selby: Okay. I think I've got it. I'm keeping my education side, with this side, comparing and very similar things happened; I want to make sure I'm understanding.

Mayor Jones: Councilwoman, if I may, it puts the ownership on the employee that is due for a promotion to notify their Supervisor that they are in line for that and eligible; otherwise, the promotional testing obviously goes by years in position and eligibility, so if I may in Rehoboth, we're contract, so it's different. So ours is laid out that promotional testing is conducted twice a year, October and March, period. You can either test early. You're still going to wait until your promotional date to receive it or you can wait and go past that date, but you have that opportunity one way or another, but you need to tell your employer that time is up and you're eligible to test.

Councilwoman Parker-Selby: So it's up to the officer to make that \_\_\_\_\_?

Mayor Jones: That's correct.

Councilwoman Parker-Selby: Okay. Thank you.

Mayor Jones: If there's no further discussion, all those in favor of adopting this proposed change to the rank structure in the Police Department say aye. Opposed. Motion is carried.

e) Community Development Block Grant: Council Resolutions 2014-3

Mayor Jones: Is this something that needs to be read into the record, Mr. Thompson?

Seth Thompson: I believe we read it in last time. The question was if we needed to fill in any sort of blank in terms of matching funds from the Town and I see on this copy that N/A has been included, so...

Kristy Rogers: Because we are not applying for infrastructure projects, this Resolution does not apply for the Community Development Block Grant.

Mayor Jones: Has anyone come forward and notified the Town of interest or need or



wanting any contact in applying for this Block Grant?

Kristy Rogers: I haven't been in contact with anyone, but my impression was that they go through the County;

Mayor Jones: Okay. Any action needed on this?

Seth Thompson: I suppose they... do they still want us to vote on it for purposes of the rehabilitation and the application?

Kristy Rogers: Yes, they still need a signed Resolution.

Councilman Collier: I make a motion to adopt this Resolution 2014-003, endorsing project to be submitted to Delaware State Housing Authority for funding from the U.S. Department of Housing and Urban Development authorizing the Sussex County Administrator to submit application.

Councilwoman Patterson: I second.

Mayor Jones: Any further discussion? All those in favor say aye. Opposed. Motion is carried.

- f) Ordinance revising Milton Municipal Code, Chapter 174, Sex Offenders (first reading)

Mayor Jones: Before I turn this over to Mr. Thompson, if I may, I just wanted to make one very small comment. Mr. Davis is gone. I had tasked Mr. Davis with securing these maps that you received tonight, but most of all I think Mr. Savage is still here, Pennoni Associates did an outstanding job on these maps and I want to thank you because it's visually made my job much easier and anyone who has looked at these maps, it's made much easier. Pennoni Associates was charged with outlining the 3,000 foot buffers that are presently in our ordinance, all the way down to the 500 foot buffers, which is under State law. So visually it's a great tool for the Council, for this consideration. Mr. Thompson, how did this arrive on our doorstep?

Seth Thompson: Certainly, I've been contacted by two attorneys on behalf of clients that would seemingly be charged under our Ordinance and they've raised constitutional questions in terms of the effectiveness of our Ordinance and as you can see, I think it was the final one in my packet, the way the Ordinance currently reads, it covers the entire Town and that is an issue in terms of constitutionality, that the effect is to prohibit an entire class of people from living within Town. It could be that at the time the Ordinance was passed, it didn't cover the entire Town. I did reach out to the prior Solicitor and he indicated that there were areas of Town where it didn't cover previously. I don't know the Town's history enough to say whether that's correct or incorrect; but the difficulty that the Town faces, is currently I suspect that if the Town attempts to enforce it's Ordinance, a Judge would probably find it to be unconstitutional and then you don't have any effective Ordinance. So my suggestion would be to tailor it more appropriately, where it doesn't cover the entire Town. Now the Mayor referenced the State Code, which is 500 feet; that's from any school. The Town's Ordinance also covers any child care facility and any park; so that's something that I think probably makes sense. The issue is whether the Town's ability to do that is preempted by the State. I looked at other municipalities. There are other municipalities that have adopted a similar Ordinance. Some, I believe, have the 3,000 feet, but I'm not so sure that it covers their entire Town, the way it does Milton. Others, for instance, breakout a juvenile that's been adjudicated of a sex offense, as opposed to an adult. Our Ordinance doesn't do that. That's another issue based on the way our State Code reads. Our State Code treats juveniles adjudicated delinquent, differently than adults. I think the theory behind

that, based on the cases that I've read, is that the rate of recidivism in youth is not the degree that it is in adults, when it comes to these types of issues. So my suggestion would be and this is a zoning ordinance, so it's going to have to go to Planning and Zoning for an Advisory Report, my suggestion would be to look at the maps that have been provided and essentially scale back your Ordinance, so that it doesn't cover the entire Town; you might want to give some consideration in terms of whether you want to treat juveniles vs. adults differently, the way the State Code does. It might be helpful to probably better describe a childcare facility. Those are the issues that I see having gone through it, but I want to make sure we have something that's enforceable, rather than the Town spending time and money and trying to enforce an Ordinance that a Judge then says, I'm sorry, but this whole thing is invalid and at that point the Town's left with nothing.

Mayor Jones: Planning and Zoning's been very specific about wanting something that's referred to them to come with a charge. What are we looking at? I find it hard to believe under 3,000 feet that there was any constitutionality addressed at 3,000 feet; just because of the placement of our schools and parks; it really does eliminate everything. So, I think it's a great idea to refer this onto Planning and Zoning. That's going to be one very busy Committee, as well. With making these maps available to them, are you prepared to write the charge to Planning and Zoning in looking at this particular issue?

Seth Thompson: I certainly am. I'll provide other Ordinances that I saw from other municipalities. As the attorney, I don't like to make judgment calls in terms of weighing whatever public input there is and determining what the appropriate distance is, but I can provide comparisons. Really, my main concern right now is that the entire Town is covered and that would be a problem.

Councilman Collier: I'm unclear why this needs to go to Planning and Zoning, because it's not part of Chapter 220, which would be the zoning issues?

Seth Thompson: It's not, but your authority for adopting the Ordinance in the first place, was under your zoning power, under Title XXI, Chapter 3, so...

Councilman Collier: So that's where the tie is, under the Delaware Code?

Seth Thompson: Right. Because the...

Councilman Collier: Okay. I wasn't clear because it didn't make sense, when you look at the way our Ordinances are structured, but the charge is initially under the Delaware Code and now I see why.

Seth Thompson: That's your authority for adopting this and that's the rationale, is that this is a zoning issue.

Councilman Collier: Okay. I understand.

Mayor Jones: But the issue of adjudicating as a juvenile vs. an adult, is that something that's also passed to Planning and Zoning?

Seth Thompson: It's up to the Town Council. You don't have that currently. It's something that at least a nearby city has considered and it's something that seems to be reflected in the State Code. That's not my decision, but I do like to bring to bare issues that people need to think about and consider and maybe the public wants to consider.

Mayor Jones: And in reference to these two legal cases at this time, forwarding this on for appropriate review, will that stay the situation while we review; what happens to those cases at this point?

Seth Thompson: Well, the bottom line is as your books currently read, there are two situations where... and I think one person under your timeline could be charged; the other

person could not be, because they have sixty days to relocate. I just look at it from a practical perspective of walking into Court and the Town paying me to be there and producing not only a bad result in that case, but a bad result for the Town in that the entire Ordinance gets potentially struck down.

Councilman Collier: So are we going to send this forward with all these examples to Planning and Zoning, or are we going to send it forward with a recommendation of what we want them to review?

Seth Thompson: That's up to Council. If Council wants to mirror the State Code, that's one less issue for them to consider. If you just want them to be aware that Council's looking for their recommendation on the distance and potentially on a better definition of childcare facility and the youth adjudication vs. the adult conviction. Those are the issues that jumped out at me.

Mayor Jones: I don't know that we want to charge Planning and Zoning with the adult vs. the juvenile conviction issue. I wonder how comfortable they would feel with reviewing it.

Seth Thompson: I don't know. I can share with them. It's entirely up to the Council. If you don't want to forward that issue onto them...

Councilman Collier: For me, I think the smartest thing is to closely mirror what the State Code says.

Councilwoman Parker-Selby: That is probably where I'm coming from with it.

Councilman Collier: I would say the difference between the State Code and what we currently have in ours, if we scale back our distances, and we include parks, day cares, I see that we even include the little league ball field, or I'm assuming that we do, because it's shown on our maps that we have.

Seth Thompson: We do and that's based on the definition that is currently the definition of park.

Councilman Collier: To me, that seems to be the direction I would like to kind of point them in, because for me it makes the best sense and it's the most prudent and it probably relieves us of the idea of being in a constitutional violation of anything. If we go somewhere in the middle between what we currently have and what the State says we still... kind of walk that line along and maybe still be in the constitutional violation...

Seth Thompson: That's right. It's interesting. I think the Town is probably in a good position to rely on the factual findings and the factual basis that the State used in determining that 500 feet was appropriate for a school; now seemingly the same rationale is going to apply to other areas where children would congregate.

Councilman Collier: I understand the value of this Ordinance. I really do, but again, I also understand the liability that we'll leave in place if we don't correct it, because usually if they challenge you constitutionally, then the next thing they do is, they challenge you in your pocketbook too. Pain and suffering, or whatever you want to call it. I'm leaning towards the idea if we forward this on... Well we have to forward it to Planning and Zoning; there's no doubt, but it would be my recommendation that they look at scaling our Ordinance back to the equivalent of the State with the distances and maybe go a little further with defining what a childcare facility is and so on and so forth, so that it's very clear; because we have commercial childcare facilities and I'm not sure, anymore, and Mr. Davis is no longer here, but I know at one time I know I've sat in Planning and Zoning meetings where they heard applications for home-based ones, as well and that has to be taken into consideration. That would be my thought. If you guys wanted a motion, then that's my motion.

Councilwoman Parker-Selby: I'll second it.

Chief Phillips: I'd like to make a statement if I could please, just for the record.

Mayor Jones: Wait one second. So right now we have as a recommendation onto Planning and Zoning, that Council's recommendation is that we consider the State's 500 foot buffer, is that correct? Chief Phillips.

Chief Phillips: I'd like to go on the record to say that I don't agree with you. I think we should stay 1,000 feet if we're going to do anything and the reason is because I've actually seen the people that have been coming here and I'm telling you now, you don't want those people here; the ones that... there are some bad people and the 500 feet, it looks good, but 1,000 would be better. That's just my opinion and however you all vote, that's fine.

Councilwoman Patterson: I have to agree with the Chief. Milton's a very interesting town because as small as we are, we've got these three schools that just seem to cluster in our town, so that's kind of... I think the State's recommendation for 500 feet applies to an area that's bigger than ours; that doesn't have this cluster of these three schools, so close, within the borders of our town. I think and I understand... It's the Town of Milton. We can make our own decisions here, as well, but I think 1,000 feet would be a little more prudent.

Councilman Coté: I would agree with 1,000 feet.

Seth Thompson: I think the Council's point are well taken. Obviously when the State Legislature acted, they're considering urban areas, rural areas. I think it is prudent to just put forward to Planning and Zoning to consider our specific scenario.

Councilwoman Patterson: Absolutely, because we are very, very unique in that aspect.

Councilman Collier: Alright, well I'm going to amend my motion that they consider both those scenarios, then.

Mayor Jones: So we have a revised motion on the table that Planning and Zoning consider both the 500 foot buffer and 1,000 foot buffer.

Councilwoman Parker-Selby: Second.

Mayor Jones: Any further discussion? All those in favor say aye. Opposed. Motion is carried.

g) Proposed vendor debarment procurement procedure

Mayor Jones: Mrs. Rogers.

Kristy Rogers: This policy also came from the meeting with DEMA last week. What they explained is that we have to have a policy in effect, called Vendor Debarment any time we're using Federal funds for a project. Basically it's a process which you're certifying that a vendor that the Town may use, has not been debarred for any reason. The policy that is attached is the Federal Policy. There's a certification sheet that would need to be attached to any bid that's received to certify that the vendor is not debarred for any reason federally, as well as the process of which anyone would be able to check the Federal list. In the memo, I did expand this, not only for Federal, but any time we use State or other agency funds for grants.

Councilman Collier: It's probably a wise practice.

Councilwoman Parker-Selby: I'd like to move that we accept or approve the Vendor Debarment Procurement Policy, as presented.

Councilman Collier: I'll second that.

Mayor Jones: Any further discussion? All those in favor say aye. Opposed. Motion is carried.

14. Executive Session:  
a) Personnel matters in which the names and abilities of individual employees are discussed regarding to police retention  
Mayor Jones: Do I hear a motion to...  
Councilman Collier: Move to go into Executive Session.  
Councilwoman Patterson: Second.  
Mayor Jones: All those in favor say aye. Opposed. Motion carried. Executive Session began at 8:33 p.m.  
  
Councilman Collier: Motion to come out of Executive Session at 9:15 p.m.  
Councilwoman Parker-Selby: Second.  
Mayor Jones: All those in favor say aye. Opposed. Motion is carried.
15. Discussion and possible vote on Executive Session items  
Mayor Jones: There are no votes on Executive Session items.
16. Adjournment  
Councilman Collier: Motion to adjourn.  
Councilman Côté: Second.  
Mayor Jones: All those in favor say aye. Opposed. Motion is carried. Meeting adjourned at 9:16 p.m.